THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 8007 of 2001

Date: .09.2005

Between:

M.Mohan Reddy, s/o. Munikrishna Reddy,

Jr. Assistant, TTD's Service, Tirupathi,

R/o. Tirupathi.

…Petitioner

and

Tirumala Tirupathi Devasthanams, Tirupathi,

Rep. by its Executive Officer

…Respondent

ORDER:

Challenging the proceedings dated 29.11.2000 issued by the respondent as arbitrary and illegal, the present Writ Petition is filed.

The brief facts which are necessary for disposal of the Writ Petition are as follows:

The petitioner was appointed as Attender in the year 1979 with the respondent and promoted as Assistant in the year 1989; in response to a circular dated 28.09.1991 issued by the respondent, he applied for the post of Junior Assistant and L.D. Typist in December, 1991; other internal candidates who applied in February, 1992 were appointed as L.D. Typists vide proceedings dated 10.04.1992, but, his case was not considered and so, he made a representation to the respondent therefor; the respondent included his name in the list of candidates appointed for the post of Junior Assistant as last candidate, though he stand at roster point no.11 in OC category; that he was not only denied an opportunity to be appointed as L.D. Typist, but also seniority in the category of Junior Assistant; on his representations to the respondent to appoint him in the post of L.D. Typist duly protecting his seniority, he was directed to appear before the Joint Executive Officer on 03.01.2000 with all records; thereafter, the respondent rejected his request. It is further stated that though the petitioner submitted his application within the last date i.e. 10.10.1991, his case was not considered, but the cases of candidates applied in February, 1992 were considered; that the petitioner submitted his last representation on 16.03.2000; since some Senior Assistant vacancies were proposed to be filled up by the juniors to petitioner, without considering his case, he filed Writ Petition No. 19901 of 2000, which was disposed of to dispose of his representation dated 16.03.2000; but the respondents declined to consider his case as per orders dated 29.11.2000, which is arbitrary; hence, this Writ Petition.

The respondent filed his counter affidavit, *inter alia,* denying the allegations and contending that as against the impugned proceedings dated 29.11.2000, an appeal to the Board of Trustees is available under Section 120(i) of the Act 30 of 1987 and then the Government to consider his grievance; that without exhausting the said remedy, the petitioner approached this Court; the petitioner did not specifically state that he possessed the prescribed qualifications;

that the petitioner was placed at appropriate place in the seniority list of Junior Assistants; he did not submit his application in time; the petitioner admitted that as he passed Typewriting examination in December, 1991, he applied for the said post in the said month; the application submitted by the petitioner did not contain the office seal or officer's initial to know the date of its submission; the Joint Executive Officer rightly observed that he was not qualified as on the stipulated date i.e. 10.10.1991; hence, he prayed for dismissal of the Writ Petition.

The learned counsel for the petitioner contended that he applied for the post of Junior Assistant as well as for the post of L.D. Typist as an internal candidate in December, 1991; that having considered the internal candidates who applied in February, 1992, he was not considered and therefore, his case has been discriminated; when the petitioner gave representation dated 16.03.2000 requesting to consider his case for appointment to the post of L.D. Typist as internal candidate, though the then Executive Officer considered it favourably, but no final orders were issued; hence, he prays to allow the Writ Petition.

The learned standing counsel appearing for the respondent contended that the petitioner has not applied for the post of Junior Assistant in pursuance of the circular issued in the year 1991 and as the petitioner has not applied for the post within time, he was not qualified; that as the petitioner was not qualified as on the stipulated date, question of his promotion does not arise and therefore, he prays to dismiss the Writ Petition.

It is not in dispute that the respondent invited applications vide proceedings dated 28.09.1991 from the eligible candidates for filling up of existing vacancies of L.D. Typists by direct recruitment. But, the contention of the Writ Petitioner that by virtue of the said proceedings, the respondent called for inservice candidates to apply to the post of

Junior Assistant, is not tenable. As per the proceedings dated 28.09.1991, the respondent called for the applications for filling up the post of L.D. Typist. It is made clear in the said proceedings as follows:

> "Applications are therefore invited from all the eligible inservice regular employees of the T.T.D. who possess requisite qualifications as mentioned above for competing with the other direct candidates for recruitment for the post of L.D. Typist. They may apply on or before 10.10.1991 in the enclosed form. Applications received after 10.10.1991 will not be considered for interview and test. The individuals who do not possess the requisite qualifications need not apply."

The educational qualifications for the post of L.D. Typist are that the candidate must have passed Intermediate examination of Intermediate Board of A.P. Govt. or any other qualification equivalent thereto; must have passed the Govt. Technical examination in Typewriting English or Telugu by Higher grade. Even according to the petitioner, he was not having Typewriting English or Telugu by Higher grade as on 28.09.1991. Perhaps, that is the reason that he had not applied for the same. The petitioner passed Typewriting examination in the month of December, 1991 and even according to the petitioner, he has applied for the said post of Typist in December, 1991 as an internal candidate. Therefore, when he was not qualified as on the date of submission of the application, question of considering his case or appointment, as L.D. Typist does not arise.

But the grievance of the petitioner is that the other internal candidates, who applied in February, 1992, were considered and appointed as L.D. Typists vide proceedings dated 10.04.1992, but his case was not considered. It is not known when the persons who were selected as per the proceedings dated 10.04.1992 applied and whether they were qualified as on the date of issuance of the notification dated 28.09.1991. A very vague averment is made in the affidavit stating that internal candidates have applied for the post of L.D. Typist in February, 1992. In the counter affidavit filed by the

respondent, it is stated that all the applicants who were eligible and qualified as on that date were appointed. It is specifically stated in the counter affidavit that the contention of the petitioner on par with other internal candidates, who applied in February, 1992 deserves no consideration, and his case can not be equated on par with them since he did not submit his application in time. Even after acquiring qualification of typewriting, he did not submit any application. The application said to have been submitted by the petitioner did not contain office seal or officer's initial to know the date of submission of his application. When he was not qualified as on the date prescribed in the notification, question of considering him to the post and appointing him into the said post does not arise viz. when he did not possess type writing higher grade qualification as on the date prescribed, he can not be appointed as an L.D. Typist. It is a case where the petitioner is indulging in speculation, even without applying for the post and without possessing the minimum qualification. Assuming for a moment that the some of the inservice candidates' applications have been received in February, 1992, still the case of the petitioner can not be considered in view of the fact that he did not apply along with them. In the absence of any application, question of consideration to the post of L.D. Typist does not arise.

A challenge was made to the proceedings of the respondent dated 29.11.2000 rejecting his claim to appoint him in the cadre of L.D. Typist. The impugned order clearly indicate that without being appointed as a Typist, petitioner can not be given retrospective seniority on par with other eligible candidates in the cadre of Typists. Therefore, the representation of the petitioner dated 16.03.2000 was rightly rejected.

Further, in this Writ Petition, at one stage he contended that he applied for the post of L.D. Typist within stipulated time and at another stage, he states that he applied for the said post in December, 1991. Admittedly, the last date for receipt of applications was 10.10.1991. Therefore, contradictory statements of the petitioner in his affidavit

filed in support of this Writ Petition with regard to submission of his application shows that he did not approach this Court with clean hands. Therefore, such a person does not deserve for grant of any relief of seniority in the cadre of Typist for which he was not selected.

The Writ Petition is devoid of merits and is, accordingly, dismissed. No costs.

(K.C.Bhanu, J.)

.09.2005

DRK